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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,167	08/20/2001	James T Casey	55771/102/101	7398

7590 10/22/2003
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EXAMINER

SCHUEERMANN, DAVID W

ART UNIT	PAPER NUMBER
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2834

DATE MAILED: 10/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/934,167

Applicant(s)

CASEY ET AL.

Examiner

David W. Scheuermann

Art Unit

2834

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 July 2003.
- 2a) ☒ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 14 is/are rejected.
- 7) ☒ Claim(s) 2-13, 15-17, and 19-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicant's arguments, with respect to claim 16 are valid and the rejection thereof is withdrawn. Claim 16 is dependent on allowable claim 15 and is therefore also allowable.

In response to applicant's argument that the Reist reference is nonanalogous art, as regards claims 1 and 14, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, not only is the Reist reference in the analogous field of electrical generation via a rotary electromagnetic machine but it is also pertinent to the multi-piece flywheel having radial spokes art. Therefor the reference qualifies as analogous art.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the solid drum of the claims," page 13 of Remarks) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The teachings of Resist are combined with the preamble portion of Jepson claims 1 and 14 for the sole purpose of demonstrating that

having spokes which increase in cross-sectional area at the end for attachment to a supported outer rim or drum is known in the art. Resist clearly shows this feature. Arguments as whether the rim or drum is laminated or solid are irrelevant, as these features are not recited in the claims.

As to claim 1, the "outer surface" of the Reist reference can include all the material facing outward from the axis of rotation of the wheel, including any portions not contacting the rim or drum. Furthermore the figure 1 of Reist clearly shows a necking or reduced cross-sectional area portion of the spoke in the vicinity of E.

As to claim 14, the fact the Reist shows dovetails projecting inwardly from his rim is irrelevant as the purpose of this reference is only to show that having spokes which increase in cross-sectional area at the end for attachment to a supported outer rim or drum is known in the art. The base reference, applicants admitted prior in the preamble portion of Jepson claims 1 and 14, supplies the outer rim or drum. Therefore the 35 USC § 103 rejection of claims 1 and 14 is maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicants admitted prior in the preamble portion of Jepson claims 1 and 14 in further view of Reist, US 559910.

Applicants admitted prior shows the invention as claimed except for the spokes having an outer surface or pad of area substantially greater than the minimum cross sectional area of the spoke. In the same field of flywheel-like structures having spider type spokes extending radially outward from a supporting shaft, Reist, US 559910, teaches increasing the area of the outer end on spoke E, for the purpose of supporting the peripheral drum (via a dovetail groove or mortise see lines 67-69). At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to increase the outer surface or pad of area substantially greater than the minimum cross sectional area of the spokes of applicants admitted prior art. One of ordinary skill in the art would have been motivated to do this to better support the peripheral drum.

Allowable Subject Matter

Claims 2-13, 15, 16, 17-22 are would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

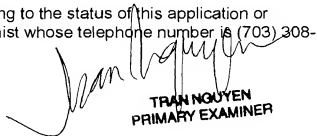
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David W. Scheuermann whose telephone number is (703) 308-9637. The examiner can normally be reached on Monday through Friday from 8:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on (703) 308-1371. The fax phone numbers for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

dws
October 17, 2003



TRAN NGUYEN
PRIMARY EXAMINER